

California Victim Compensation and Government Claims Board
Open Meeting Minutes
September 15, 2011, Board Meeting

The California Victim Compensation and Government Claims Board (Board) convened its meeting in open session at the call of Anna Caballero, Secretary, State and Consumer Services Agency, at 400 R Street, Sacramento, California, on Thursday, September 15, 2011, at 10:02 a.m. Also present was Board member Richard Chivaro, Chief Counsel, acting for and in the absence of John Chiang, Controller, and Board member Michael Ramos, San Bernardino County District Attorney.

Board staff present included Julie Nauman, Executive Officer; Patty Harris, Chief Deputy Executive Officer; and Wayne Strumpfer, Chief Counsel. Tisha Heard, Board Liaison, recorded the meeting.

The Board meeting commenced with the Pledge of Allegiance.

Item 1. Approval of Minutes of the August 18, 2011, Board Meeting

The Board voted to approve the minutes of the August 18, 2011, Board meeting.

Item 2. Public Comment

Linda Siegel commented that providers contacted the Law Office of Michael Siegel to make him aware that CalVCP staff contacted their clients inquiring about the number and length of sessions provided. According to the providers, applicants felt harassed because they could not recall specific session dates or times because many of the sessions occurred over six months ago. Ms. Siegel provided the Board with emails from four providers who complained of CalVCP's practice.

Additionally, Ms. Siegel provided the following comments as a follow up to the December 16, 2010, meeting in which she stated she would discuss revenue projections relative to the Restitution Fund:

- CalVCP ended with a \$27 million surplus, which was rapidly declining.
- Pursuant to information provided by the State Treasurer's Office, CalVCP's surplus to date is \$68 million.
- The number of applications received would decline as providers closed their businesses; consequently, victims would no longer have access to service, which would result in a 20% decrease in claims.
- Program expenditures have decreased by 50% in many categories.

Item 3. Executive Officer's Statement

Decade of Remembrance – 9/11

Executive Officer Julie Nauman reported that on Sunday, September 11, 2011, she participated in the "Decade of Remembrance" ceremony hosted by the Law Enforcement Chaplaincy of Sacramento on the east steps of State Capitol. The event honored and paid tribute to first responders, military personnel, and those whose lives were lost a decade ago on 9/11. Keynote speaker Governor Brown was joined by California Attorney General Kamala Harris, United States Attorney General for the Eastern District of California, Benjamin B. Wagner, Assembly Member Roger Dickinson, and Sacramento City Mayor Kevin Johnson.

Annual National Association of Crime Victim Compensation Boards (NACVCB) Conference

On September 19-23, 2011, Executive Officer Nauman reported that she would attend the 2011 VOCA National Training Conference in Long Beach, California. As the host state, CalVCP will play an active role in the conference and will highlight developments and advances made over the years. Chairperson Anna Caballero will offer opening remarks and several CalVCP staff will give presentations at workshops covering such issues as revenue recovery, new media outreach, developing effective written policies and procedures, and case studies on the anniversary of 9/11. Ms. Nauman, member of NACVCB Board of Directors, will facilitate a roundtable discussion with other managers and directors of compensation programs to discuss strategic plans and issues relating to federal and state legislation, among others.

Item 4. Legislative Update

Jon Myers, Deputy Executive Officer, Legislation and Public Affairs Division, reported the following:

- SB 207 (Kehoe), the VCGCB's first Government Claims Bill of 2011, which appropriated \$557,729.29 to pay claims approved by the Board from June 2010 through November 2010, was chaptered.
- AB 139 (Fuentes), the VCGCB's second Government Claims Bill of 2011, which appropriated \$3,009,627.04 to pay claims approved by the Board from December 2010 through May 2011 and appropriated \$162,700 to pay the erroneous conviction claim of Robert Cuevas was chaptered.
- AB 898 (Alejo), the bill relating to restitution fines, increases the minimum amounts for restitution fines imposed on convicted defendants by 50 percent over a three-year period. The minimum fine for felony convictions increases from \$200 to \$240 in 2012, and increases further to \$280 in 2013 and \$300 in 2014. The minimum fine for felonies increases from \$100 to \$120 in 2012, and increases further to \$140 in 2013 and \$150 in 2014. The bill has been enrolled.
- AB 119 (Committee on Budget and Fiscal Review), the budget trailer bill on state government which included language that affected VCGCB's Government Claims Program by requiring the VCGCB to notify the Legislature prior to approving certain high dollar claims, was repealed. The provision repealed a recently enacted statute that required the VCGCB to notify the Legislature prior to approving claims over \$500.00.

Item 5. Government Claims Program Consent Agenda (Nos. 1- 303)

The Board voted to adopt the staff recommendations for item numbers 1-303, with the following exceptions: number 13 (G597828) was removed at the request of the Department of Mental Health to allow the department an opportunity to review additional information; number 33 (G596278) was removed for further review by staff; and number 59 (G588905) was removed to allow the claimant an opportunity to address the Board.

Chairperson Cabellero announced that the Board would change the order that an item on the Government Claims Program consent agenda would be heard. She stated that item number 59 (G588905) would be heard and discussed prior to the Board adjourning into closed session.

Item 6. Claim of APC Technology Claim Number G592486

APC Technology requested payment in the amount of \$190,662.00 for legal services provided to the Department of Transportation (Caltrans).

Caltrans and Government Claims Program staff recommended that the claim be allowed in the amount of \$190,662.00 under authority of Government Code section 965 (agency pay).

The Board voted to adopt the staff recommendations to allow the claim in the amount of \$190,662.00, under authority of Government Code section 965 (agency pay).

Item 7. Claim of Western Contract Claim Number G594311

Western Contract requested payment in the amount of \$94,536.50 for storage services provided to the California Department of Transportation (Caltrans) from February 1, 2010, through August 31, 2010.

Caltrans and the Government Claims Program staff recommended that the claim be allowed in the amount of \$94,536.50 under authority of Government Code section 965 (agency pay).

The Board voted to allow the claim in the amount of \$94,536.50 under authority of Government Code section 965 (agency pay).

Item 8. Claim of Aspen Environmental Group
Claim Number G595536

Kevin Bell appeared on behalf of the California Energy Commission.

Aspen Environmental Group requested payment in the amount of \$105,242.78 for professional services provided to the California Energy Commission (CEC) under Work Authorization Numbers 1920.015 and 1920.070.

The CEC and Government Claims Program staff recommended that the claim be allowed in the amount of \$105,242.78 under authority of Government Code section 965 (agency pay).

The Board voted to allow the claim in the amount of \$105,242.78 under authority of Government Code section 965 (agency pay).

Item 9. Radio San Francisco, Inc.
Claim Number G597377

Radio San Francisco, Inc., requested re-issuance of a corporate tax refund warrant in the amount of \$249,644.40.

The Franchise Tax Board, State Controller's Office, and the Government Claims Program staff recommended that the claim be allowed in the amount of \$249,644.40, under authority of Government Code section 905.2(b)(4) (legislative pay).

The Board voted to allow the claim in the amount of \$249,644.40, under authority of Government Code section 905.2(b)(4) (legislative pay).

Item 10. Applications for Discharge from Accountability for Collection

The item was removed from the agenda.

Government Claims Program Consent Agenda Appearance
Item 59, G588905 – West Star Environmental, Inc.

Dave Mendrin appeared and addressed the Board on behalf of West Star Environmental, Inc. The California Highway Patrol did not provide representation at the meeting.

West Star Environmental Inc. (West Star) requested reimbursement from the California Highway Patrol (CHP) in the amount of \$20,230.52 for unpaid invoices.

In January 2010 West Star submitted invoices for work performed for the CHP during 2006 and 2007; however, CHP had no record of receiving the invoices. In addition, CHP asserted that West Star did not submit the invoices timely and, therefore, exceeded the four-year statute of limitations.

West Star did not provide the GCP with documentation indicating previous attempts to collect payment from the CHP or the date payment was denied. Based upon GCP's review of the claim and

CHP's written recommendation to reject the claim, GCP staff recommended that the Board reject the claim.

Mr. Mendrin stated that since 2006, West Star attempted to resolve the claim with CHP, but CHP provided several excuses for nonpayment including staff retiring and relocation of their office. He further stated that he was unable to determine the basis for CHP's recommendation to reject the claim because services were rendered to the CHP.

Chairperson Caballero asked Mr. Mendrin to explain the work West Star provided to the CHP. Mr. Mendrin stated that the contracts were for testing and service on fuel facilities.

Jackie Tinetti, Manager, Government Claims Program, stated that the CHP's basis for rejecting the claim was due to the claimant not providing documentation regarding previous payment as required by the contract.

Ms. Caballero asked Ms. Tinetti if the CHP requested billings from West Star. Ms. Tinetti stated that, pursuant to the contract, the CHP needs the invoices and West Star's documentation of their attempts to collect payment.

Mr. Mendrin stated that he could provide proof that documentation regarding the invoices was sent to the CHP on several occasions.

Ms. Caballero asked Mr. Mendrin if he could produce the documentation for the Board's review. Mr. Mendrin stated that he did not have the supporting documentation with him; however, he stated that he could provide it to the CHP later. He further added that he could also provide numerous forms of communication that occurred between West Star and the CHP including faxes, emails, and invoices.

Board member Ramos stated that he would like to hear CHP's position on the matter since West Star provided the services.

Executive Officer Nauman recommended that the Board put the matter over to allow GCP staff an opportunity to get the CHP and Mr. Mendrin together to review the documentation and determine whether the claim could be resolved outside the presence of the Board.

Chairperson Caballero explained that if West Star performed the work that was required and CHP is in agreement, the claim may not need to come back to the Board. She clarified that the Board would not make a decision on the claim; rather the Board would put the matter over. Accordingly, holding the matter over would not affect West Star's opportunity to come before the Board at a future date. She further stated that if West Star was not satisfied with the results of the discussions with the CHP, West Star could bring the matter back to the Board for their determination.

The Board directed staff to work with West Star and the CHP to resolve the matter.

Victim Compensation Program

The Board commenced the Victim Compensation Program portion of the meeting at 10:22 a.m.

Wayne Strumpfer, VCGCB Chief Counsel, announced that Victim Compensation Program applicant Nathan Esplanade (A11-2929024) requested to participate in the discussion of his claim in open session and agreed to waive his right to confidentiality. He stated that Mr. Esplanade was unable to personally appear at the meeting but would participate via teleconference.

Chairperson Caballero informed Mr. Esplanade that the Board was in open session and explained that he waived his right to confidentiality regarding his claim. She stated that the Board had an opportunity to read his correspondence dated September 8, 2011. She further stated that the Board also read the hearing officer's proposed decision on the written record regarding his application.

Ms. Caballero advised Mr. Esplanade that the Board was prepared to listen to his comments but would not rehear his case. She explained that following his comments, the Board would terminate the call and adjourn into closed session to discuss his claim and the claims of others on the Victim Compensation Program agenda. She clarified that the Board would not discuss his claim in open session. Finally, Ms. Caballero asked Mr. Esplanade if he had any questions.

Mr. Esplanade asked if the Board would discuss his claim and ask him questions. Ms. Caballero reiterated that Mr. Esplanade would be given an opportunity to make a statement, but he could not ask questions of the Board.

Mr. Esplanade read aloud his September 8, 2011, letter to the Board.

Chairperson Caballero stated that the Board did not have any questions and would adjourn into closed session.

Mr. Esplanade asked when he could expect to receive notification of the Board's decision because he had been waiting for a decision on his claim for a considerable amount of time. He stated that he put a substantial amount of time and effort in researching the documentation that he presented to the CalVCP in support of his claim.

Chief Counsel Strumpfer stated that written notification of the Board's decision would be processed within two weeks.

Chairperson Caballero stated that she appreciated Mr. Esplanade's comments regarding the timeline he was given to receive the Board's decision. She stated staff would attempt to get the Board's decision to him as soon as possible. She explained that the difficulty that the Board faced with regard to Mr. Esplanade's claim was that he filed his claim a number of years late. She added that Mr. Esplanade was advised of the CalVCP in 2006 yet he did not file a claim until 2011.

Closed Session

Pursuant to Government Code section 11126(c)(3), the Board adjourned into Closed Session with the Board's Executive Officer, Chief Deputy Executive Officer, and Chief Counsel at 10:30 a.m. to deliberate on the proposed decisions numbers 1 through 104.

Open Session

The Board reconvened into open session at 11:17 a.m. The Board voted to adopt the proposed decisions for numbers 1-104, with the following exceptions: the Board overturned the hearing officer's proposed decisions for number 17 (A11-2929024) and number 88 (A08-1637735). Chief Counsel Strumpfer clarified that number 92 (A09-18629896) was granted.

Adjournment

The Board meeting adjourned at 11:19 a.m.